

# Public Defender News



## Chief's Corner

### Special points of interest:

- [New Central Services Concept](#)
- [Contract Mental Health Consultant Named](#)
- [Insert a Screenshot in Outlook](#)

### Happy Holidays, OPD Team!

By the time you see this, the Hamilton folks will all be in one building, conveniently located across the street from the courts. The Hamilton office has been bifurcated since July of 2006, but is now one bigger happy family. It looks like the Kalispell office, currently packed in like sardines, will have new office space coming as soon as final approvals, lease paperwork and some remodeling is completed. It also appears the Highline crew in Havre will not be thrown out into the cold. We have successfully negotiated a lease on their current space.

Key areas we are addressing aside from lease issues are working diligently on the IQ system, verification of what we report to the Commission, Legislature and other state agencies, accuracy of caseloads, closing cases and, in general, accountability for what we do and say.

Congratulations to those celebrating five or more years of service in the public defense arena. You'll know them by the scars on their noggins from beating their heads against the wall for so long.

I may have mentioned this in a prior correspondence, but I'm so happy about it, I'll say it again. We were able to increase our forces by the following new or upcoming hires: administrative support persons in the Billings, Kalispell and Bozeman offices, and attorneys in the Billings, Great Falls, Helena, and Kalispell offices. Billings has two attorney positions being added, while all others are single add-ons. Unfortunately, Bozeman lost an attorney position. I hear that the Appellate office is also adding an attorney position.

Keep fighting for everyone's rights through our clients!

Again, Happy (and safe) Holidays to everyone.

Dave

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## Excellence in Performance Award

Accounting Supervisor Carleen Green was awarded the Office of the State Public Defender's annual award for Excellence in Performance. Carleen has been with the office since it was formed in 2005, and was instrumental in the start up of the agency on June 1, 2006. She was one of the first employees hired and has helped to institute many of the policies, procedures, and systems that are currently in place. For much of this time, she has been the agency's accountant and accounting supervisor. Over time, Carleen has assumed additional duties to "right size" the agency and is always a positive force in making our mission succeed. Thanks, Carleen!



## Central Services Concept Under Development

By Harry Freebourn

As you may recall, the last legislature passed legislation that established the conflict coordinator function that reports directly to the Montana Public Defender Commission and also moved the supervision of the Chief Appellate Defender to the Commission rather than to the Chief Public Defender. In order to better serve the agency, we are developing a “Central Services” concept that will provide certain services to those entities as well as to the public defender program.

What are some of the major central service activities?

- We process your pay and benefits – if you fill out and submit a time sheet in a timely manner
- We provide human resource support to the agency
- We prepare the agency’s books and records
- We pay our vendors – once we receive a claim that is properly prepared and authorized
- We pay employee travel claims – if properly completed and authorized
- We pay credit card bills – if receipts are attached, a purpose is noted, with proper approvals
- We buy, deploy and maintain computers, software, and communication equipment
- We work with your contractors and provide other purchasing oversight
- We manage your facility and auto leases
- We provide budgeting, cash management, and records management oversight
- We gather information and report to management and other agency stakeholders
- We provide staffing to the Commission for meetings and other needs

Currently, these services are part of the Central Office which also provides managerial oversight for the agency. The plan is to form a central services group within the Central Office with the objective to serve all of you as you undertake the very important mission of serving our clients. We don’t have all of the details worked out yet but when we do we will update you in a future newsletter.



*After years of service, it was time for an upgrade in the Anaconda office.*

## Mental Health Consultant

Following the departure of Dr. Laura Wendlandt, OPD’s mental health consultant, the agency undertook a state-defined process to contract for the services that she had been providing as an FTE.

Dr. Michael Scolatti’s proposal was accepted and a contract with him should be in place shortly.

Dr. Scolotti specializes in sex offender treatment, and developed the SABER treatment program that is now used by over half of all MSOTA treatment providers. He is also experienced in general forensic assessment and evaluation in the areas of Competency to Stand Trial, Criminal Responsibility, False Confessions, Juvenile Transfers and Fitness to Proceed.

He currently contracts with Federal Probation and Parole to provide sex offender assessment and treatment services and is the director of the Domestic Violence/Anger Management program for the Confederate Salish-Kootenai Tribes.

As OPD’s Mental Health Consultant, Dr. Scolatti will be responsible for all mental health pre-approvals and supplemental requests. Lynn Mac-Millan will continue to be the point person for those requests.

## Chief Public Defender Selection

*Fritz Gillespie, Chair, Public Defender Commission*

The application deadline for the permanent position of Chief Public Defender was November 30. There were eleven applicants. I participated in the initial screening to weed out applicants who did not meet the minimum qualifications. Four did not demonstrate minimum qualifications in terms of managerial and/or practice experience.

The next step in the process is phone screening of the remaining seven, which will take place during the week of December 5. Each of the seven brings qualifications to the process worthy of consideration. This field of applicants may be narrowed or maybe not. Afterwards the Commission will conduct in-person interviews as soon as can be arranged but not later than soon after the first of the year. Two or three finalists will be invited to meet with the Commission prior to the January 20, 2012 meeting, and a final selection will be made at that meeting.

## OPD Brief Bank

OPD's Brief Bank continues to improve. If you haven't yet had the opportunity to join, go to <http://www.montanaprobono.net/defender/join/> to request your membership. The Brief Bank is open to all OPD attorneys, both FTE and contractor. Check it out!

## How to Insert a Screenshot in Outlook

<http://www.lifehacker.com>

Outlook 2010 has a cool but obscure feature that might save you some time: Insert Screenshot, which lets you quickly create a screen grab and insert it into the body of your email. Instead of having to first take the screenshot, save it to disk, then insert it as an attachment in your email, you can just use Outlook's Insert menu:

- Create a new email message and click in the body of the message.
- Under the Insert tab, click Screenshot. Depending on your ribbon menu setup, this might be a tiny icon—specifically, a little camera icon with a dotted rectangle.
- From the Screenshot dropdown, click on one of the available windows to insert it. If you don't see a window you want to insert, make sure the program isn't minimized to the taskbar.
- Alternatively, if you want just a portion of the screen, click on the Screen Clipping button at the bottom of the Screenshot dropdown. This will bring up a cross-hair cursor for you to drag around the area of the screen you want to select.

*“So you want to be a public defender? Don't do it for the money, there isn't enough. Don't do it for the prestige, you won't get any. Don't do it for the thrill of victory, victory rarely comes.*

*Do it for love. Do it for justice. Do it for self-respect. Do it for the satisfaction of knowing you are serving others, defending the Constitution, living your ideals.*

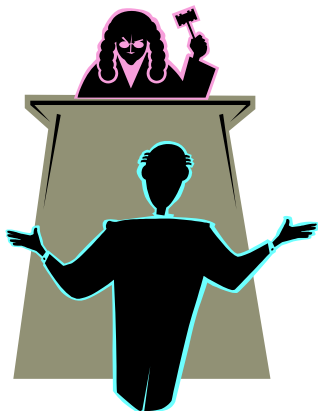
*The work is hard. The law is against you. The facts are against you. Sometimes even your clients are against you.*

*But it is a great job— exhilarating, energizing, rewarding. You get to touch people's hearts and fight for what you believe in every day.”*

*Carol A. Brook*

*Federal Public Defender for Northern Illinois*





*All FTE and contract attorneys are required to complete the computer-based Standards verification by December 31, 2011*

## Contractor Corner

*By Larry Murphy, Contract Manager*

Well, since my last writing my Yankees have lost, the Chief Public Defender resigned, an Interim Chief has been appointed, a new conflict coordinator was hired, Dr. Laura accepted a better paying job, and we're still underfunded.

I, on the other hand, have been traveling the state quite regularly having face-to-face "sit-downs" with the contract/conflict attorneys. Over the last 10-11 months I've met with about 75% of our contractors to do these standards compliance interviews. They are but one component in an overall proficiency determination required for each contract attorney (see 47-1-216 M.C.A. and the Standards for Counsel, IV, 5). In addition to these face to face meetings, the Regional Deputy who assigns cases must observe the attorney and complete a form advising me of their observations, as well as comments they may have received from judges, judicial personnel, clients and other attorneys. Other components include our requests for copies of motions and briefs that have been filed (which are used as writing samples), any billing issues (late filings, excessive billing, etc.), and required documentation (Attorney Summary of Education and Experience and annual updates, current MOU, copies of State Bar CLE affidavit, etc.). Once we have the complete package (interview, observation and documentation), the Regional Deputy and I agree on a proficiency determination. If the attorney is deemed not proficient in an area in which they practice, various remedial options are recommended. At that point a document is generated to the attorney and the attorney is asked to agree or disagree by signing the document. To date, we haven't received any disagreement when we have decided that an attorney is proficient. We have, however, had some disagreement when an attorney is deemed not proficient in a particular area.

Eric Olson, OPD's Training Coordinator, together with various others, developed a computer-based Standards verification system and the Public Defender Commission has endorsed it. This is an online open book test of an attorney's knowledge of OPD's Standards for representation of indigent clients, which have been essentially adapted from the ABA Standards. All FTE and contract attorneys are required to complete this test by December 31, 2011. If you have any questions on how to access or complete the process, please contact me or Lynn MacMillan.

Finally, for those of you who do DN work (abuse and neglect cases) there are recent statutory changes pertaining to the appointment of an attorney for a child. It is now within the discretion of the judge to appoint the child an attorney when a guardian ad litem has been appointed. This is very controversial. OPD is also working on the creation of a Standard for representation of a child in abuse and neglect cases. You may have received emails from Lisa Kaufmann, one of our contract attorneys who does a lot of DN work. OPD is soliciting perspectives from all who do DN work, so that various options can be submitted to the Public Defender Commission, which is ultimately responsible for adopting the Standard. Lynn and I are the clearinghouse for this so keep those cards and letters coming.

Thanks to all of you who took advantage of the OPD sponsored DN training offered in Whitefish this last October, and also to those of you who attended the Annual Training/Conference. Hopefully, both were beneficial.

Happy Holidays to you all and hope to see you soon.

Larry

*Please see page 5 for housekeeping details.*



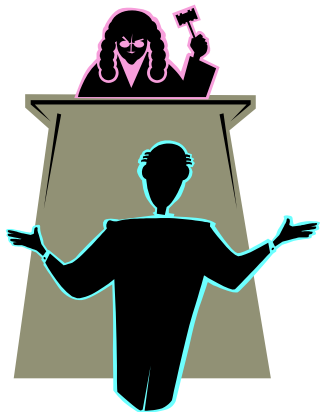
## Appellate News

We all know how difficult it is to be a public defender. The following quote hangs on my wall. It was sent to me by a dear friend who reminds me about the great work this agency accomplishes. I wanted to pass this along to all of you so you remember how important all of you are.

“It is not the critic who counts, not the one who points out how the strong person stumbles, or where the doer of deeds could have done better. The credit belongs to those who are actually in the arena, whose faces are marred by dust and sweat and blood, who strive valiantly, who err and come up short again and again, who spend themselves in a worthy cause, who at best know in the end the triumph of high achievement, and at worst, if they fail, at least they fail while daring greatly.” By Teddy Roosevelt

Happy Holidays!

*Joslyn*



*“Don’t forget to send  
Lynn a copy of your  
State Bar CLE  
affidavit, if you  
haven’t already.”*

## Housekeeping Details for Contractors

*By Larry Murphy*

Lynn advises there are a number of housekeeping topics to address with our contractors:

**Third party costs** – for example, the cost of a process server or the costs incurred to a local copy shop. If you make the **mistake** of paying these costs yourself and then adding them to your claim, they will **not** be reimbursed. The auditors have told the accounting folks that OPD needs to pay these costs directly to the provider. Arrange with the process server, local copy shop or other provider to bill OPD directly and give them Lynn’s number if they need assistance (406-496-6385).

**Closing cases** – when you are assigned a case, the Regional office should be sending you a case closing form. This form must be completed when the case is closed. It essentially tells us how the case was resolved. We have also asked you to mark on your claim form a choice of closure designations. Some of you complete this task, but others don’t. Poor Lynn has to follow up on the specifics, but remember we opened 27,000 new cases last year. That’s a lot of phone calls to determine how each case was resolved. OPD’s need for this data is important. It will be used before Legislative bodies to justify needed increases in funding for both OPD and contract attorneys. If you are not receiving the case closure forms, please notify Lynn or me.

**Claim payment** – The accounts payable staff use the first in, first out method of payment. The 30 day payment rule is being adhered to, i.e. your claim will be paid within 30 days from receipt thereof. If this is not happening, please let us know. The exception to this rule is where questions arise about the claim or when the claim wasn’t submitted in a timely fashion. Lynn sends an email to the attorney when there are questions. As to the timely filing of claims, we **must receive** your claim within 45 days of the last day of the month for which you are billing.

**Mileage** – the current mileage rate is **\$.555/mile**. We are seeing a lot of errors in calculating mileage, resulting in extra work for you and for Lynn as well as possible payment delays. Please be sure to use the correct rate, and be prepared for possible new rates in January.

**Don’t forget** to send Lynn a copy of your State Bar CLE affidavit, if you haven’t already.

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ENSURING EQUAL ACCESS  
TO JUSTICE STATEWIDE

The Office of the State Public Defender is responsible for statewide public defender services, including appellate representation, provided through local offices and the Office of the Appellate Defender.

The mission of the Office of the State Public Defender is to ensure equal access to justice for the State's indigent and those who are statutorily entitled to services in civil cases, as well as to provide appellate representation to indigent clients.

Dave Stenerson is the Interim Chief Public Defender for the State of Montana. Joslyn Hunt is the Chief Appellate Defender. Both are appointed by the Public Defender Commission, currently chaired by Fritz Gillespie. For more information, please visit our website, [www.publicdefender.mt.gov](http://www.publicdefender.mt.gov).

**We're on the web!**

**[www.publicdefender.mt.gov](http://www.publicdefender.mt.gov)**



## Upcoming Training Events

**February : OPD Boot Camp**

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### ***Online Standards Verification***

The online Standards Verification will close on December 31, 2011. Please visit the link below to verify that you have read the standards.

<http://mtopd.crhosts.com/login/index.php>